



## The Assam Land (Requisition and Acquisition) Act, 1964

Act 15 of 1964

**Keyword(s):**

Collector, Court, Displaced Person, Owner

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# **ASSAM LAND (REQUISITION AND ACQUISITION)**

**ACT, 1964 \***

**[Assam Act XV of 1964]**

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***[Received the assent of the President on 29<sup>th</sup> July, 1964]***

**An Act to amend and consolidate the law for requisition and speedy acquisition of premises and land for certain public purposes**

**Preamble.** Whereas it is expedient to amend and consolidate the law for requisition and speedy acquisition of premises and land for certain public purposes;

It is hereby enacted in the Fifteenth Year of the Republic of India as follows:

**COMMENTS**

Provision of law are mandatory. [*Brajendra v. State of Assam*, 1991 (2) GLJ 437].

**1. Short title, extent and commencement.**

- (1) This Act may be called the Assam Land (Requisition and Acquisition) act, 1964.

(2) It extends to the State of Assam.

(3) It shall come into force at once.

\* Published in the Assam Gazette, Extraordinary dated the 3<sup>rd</sup> August 1964.

**2. Definitions.** In this Act, unless there is anything repugnant in the subject or context-

(a) “Collector”, “land” and “person interested” have the same meaning as in the Land Acquisition Act, 1884 (Act 1 of 1894);

*Explanation.* Land for the purpose of this Act includes trees, buildings and standing crops on it, and easement.

(b) “court” means a principal Civil Court of original jurisdiction, and includes the court of any Additional Judge, Subordinate Judge or Munsif whom the State Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of Munsif up to the limits of the pecuniary jurisdiction with which he is vested under S.19 of the Bengal, Agra and Assam Civil Courts Act, 1887 (Act XII of 1887);

(c) “displaced person” means-

(i) any person who, on account of this setting up to the two Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in area now forming part of Pakistan has been compelled

to leave his place of residence in such area after the 1<sup>st</sup> day of March, 1947 and who has subsequently been residing in India and is in distress, or

(ii) a person who has been displaced due to various acquisition proceedings relating to land in Assam since 1943.

(d) “owner” means proprietor or patta holder and his co-sharer; and

(e) “prescribed” means prescribed by rules made under this Act.

### **3. Power to requisition.**

(1) If in the opinion of the State Government or any person authorised in this behalf by the State Government it is necessary so to do, for maintaining supplies and services essential to the life of community or for providing proper facilities for accommodation, transport, communication, irrigation, flood control and anti erosion measures including embankment and drainage or for providing land individually or in groups to landless, flood affected or displaced persons, or to a society registered under the Assam Co-operative Societies Act, 1949 (Assam Act I of 1956), or a company incorporated under the companies Act, 1956 (Act I of 1956), formed for the benefit and rehabilitation of landless, flood affected or displaced persons or to provide land for the purpose of construction of border fencing and allied works, including border roads and check posts connected therewith, along Bangladesh border, the State Government or the person so authorised, as the case may be, may, by order in writing,

requisition any land and may make such further orders as appear to it or to him be necessary or expedient in connection with the requisitioning.

Provided that no land used for the purpose of religious worship shall be requisitioned under this section.

Provided further that where it is necessary to provide the land to less or displaced persons such land shall not be requisitioned unless the person interested in the land has been given an opportunity of making representation against it within such time and in such manner as may be prescribed in this behalf.

- (2) An order under sub-S. (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant, also on such tenant.
- (3) When the order for requisition is made by any authority other than the State Government, any person interested in the land, within 30 days from the date of service of the order, may appeal to the state Government and the decision of the State Government in such appeal shall be final.

## **COMMENTS**

*Section. 3.* Where the land was acquired under S.4 before requisitioning it under this section, any later order of requisition with retrospective effect will not validate the order of acquisition. [*Collector of Kamrup v. Kamakhya Ram*, AIR 1965 SC 1301]

*Section. 3 (1)* mentions the word “accommodation” only and not accommodation for any public purpose as such and nothing is specified under that head to that effect. Even though the words, “for public purposes” are mentioned qualifying the word, “accommodation”, it is implicit that accommodation will be for the kindred kind of the other public purposes mentioned in S.3 (1) . [ *The Jorehaut Tea Company Ltd. v. Land Acquisition Officer*, ALR 1972 Gau 186: AIR 1972 GAU 68]. The appellate power under sub-S. (3) of this section is quasi-judicial and in exercising quasi-judicial power the State Government should pass a speaking order on the appeal petition. [ *Sreeelal Tunial v. The State of Assam*, 1977 ALR 105; reference may be made to the Full Bench decision in the case of Prabhat Chandra Deka v. K.C. Barua, AIR 1960 Assam] the Supermen Court in the *State of Assam v. Hari Singh* [AIR 1966 SC 29] held that, investment of power to entertain an appeal with authority to pass an order to the prejudice of one of the claimants *prima facie* implies a duty to act judicially, and there is nothing in the Act, which negatives that implication. It was also observed that after the decision of the Supreme Court in A.K. Kraipak v. Union of India [AIR 1970 SC 15] that there is no scope for submission that the appellate power under sub-S. (3) of this section is not a quasi-judicial power. The words, “or to provide... Bangladesh border” in sub-S. (1) of S.3, have been added vide Assam Act X 1985.

Pre-condition for passing an order under this section. [ *Hiralal Phukak v. State of Assam*, 1995 (1) GLR 155]

Release from acquisition is independent of delivery of possession-whether can be requisitioned again. [ *Indra Mohan Chakraborty v. State of Assam*, 1989 (2) GLR 281]. Whether the provisions will apply where land is required by Municipality for establishment of a market (supra).

Final order passed by Minister on a statutory appeal cannot be ignored by his successor (*Supra*).

#### **4. Power to take possession of requisitioned land.**

- (1) Where any land has been requisitioned under S.3 the State Government or the person authorised in this behalf by the State Government may, by order in writing, direct the owner, the tenant, or any other person who may be in possession of the land whether at the time of the requisition or at any time thereafter before the land is released from the requisition under S.8 to surrender or deliver possession thereof to the Collector or any other person duly authorised by him in this behalf within such days of the service of the order as may be specified therein.
- (2) If any persons refuses or fails to comply with an order made under sub-S. (1), the State Government or the person authorised in this behalf, in addition to any other provisions in this Act, may take possession of the land and may, for that purpose, use such force as may be necessary.
- (3) An order under sub-s. (1) shall be served in the prescribed manner of the owner of the land and where the order relates to land in occupation of a tenant or any other person also on such tenant or occupant.
- (4) If after service of the notice on the owner, tenant or the occupant, or any person other than the person on whom the notice is served, enters into possession of the land, nothing in this sub-section shall be construed as



requiring fresh notice on such person and such person shall deliver possession to the Collector or any other person duly authorised by him in this behalf on the date previously notified, notwithstanding that no fresh notice has been served on him.

- (5) If it is found that the person entering into unauthorised possession of the land under sub-S. (4) has raised any crop or erected any building or other constructions on the land the Collector or any other persons duly authorised by him in this behalf shall have the power to confiscate or destroy the crop so raised or the building or other construction so erected by such persons and such person shall not be entitled to any compensation for any loss or damage so done.

## COMMENTS

*Section 4.* Where land was acquired under this section before requisitioning it under S.3, any later order of requisition with retrospective effect will not validate the order of acquisition. [*Collector of Kamrup v. Kamakhya Ram*, AIR 1965 SC 1301]

**5. Repairs to buildings.** Where any land with building standing thereon is requisitioned under S.3, the Government or the person authorised in this behalf by the State Government may order the owner to execute such repairs as may be necessary and are usually made by the landlords of that locality and as may specified in the notice issued in this behalf within such reasonable time as may be mentioned therein and if the owner fails to execute any repairs of pursuance of such order, the State Government or the person authorised in this behalf by the State Government may cause repairs specified in the order to be executed at the expense

of the owner and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the owner in such proportion and over such period as may be prescribed.

Provided that where an order is made by an authority other than the State Government to carry out repairs at the expense of the owner, the owners or any other person interested in the land, within 30 days from the date of service of the order, may appeal to the State Government, and the decision of the State Government on such appeals shall be final.

## **6. Acquisition of land.**

- (1) Where any land, has been requisitioned under S.3, the State Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land publishing in the official Gazette, a notice to the effect that the State Government has decided to acquire such land on pursuance of this Section .
- (2) Where a notice as aforesaid is published in the official Gazette, the requisitioned land and promises shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the State Government free from all encumbrances and the period of requisition of such land shall end.
- (3) subject to the provisions of this Act on such vesting, the provisions of the Land Acquisition Act, 1894 (Act I of 1894), with the rules framed there under shall, so far as may be, apply to such land.

## **7. Notice to person interested.**

- (1) After the publication of a notice under sub-S. (1) of S.6, the Collector shall cause public notice to be given at convenient places on or near the land to be taken stating that the State Government has acquired the land, and that claims to compensation for all interests in such land may be made to him.
- (2) Such notices shall state the particulars of the land so acquired, and shall require all persons interested in the land to appear personally or by duly authorised agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interest in the land and the amount and particulars of their claims to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

## **8. Release from requisition.**

- (1) where any land requisitioned under S.3 is not acquired and is to be released from requisition, it will revert to the owner and the Collector will deliver possession of the land to such owner or person interested who was recognised under sub-S. (4) of S. 11 in as good a condition as the land was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

- (2) The delivery of possession of such land to the person specified in the order made under sub-S. (1) shall be a full discharge of any liability of the State Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land, which any other person may be entitled by due process of law to enforce against the person to whom possession of the ;and is so delivered.
- (3) where the person to whom the possession of any land requisitioned under S.3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the State Government shall publish in the official Gazette a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.
- (4) When a notice referred to in sub-S. (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof, and the State Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

## **9. Speedy acquisition of land on certain cases.**

- (1) Notwithstanding anything contained hereinbefore, if the opinion of the State Government or the collector it is necessary or expedient to acquire speedily and land for works or other development measures in connection with

flood control and anti-erosion measures including embankment and drainage, or for the construction of border fencing and allied works including border roads and cheeks post connected therewith, along Bangladesh border, the State Government or the Collector by order in writing acquire the land stating the area and boundaries thereof.

- (2) The Collector shall cause the order passed under sub-S (1) to be served in such manner as may be prescribed on the owner of the land and also on the tenant or the occupant in cases where the owner is not in occupation of the land and also a notice to the same effect stating that claims to compensation for all interests in the land may be made to him within such time as may be prescribed:

Provided that when the person to be served is not readily traceable or the ownership of the land is in dispute, the Collector shall cause the above order and notice to be published in such manner as may be prescribed.

## **COMMENTS**

*Section 9, sub-S. (1)* .The words “or for the construction.....along Bangladesh border” in sub-S.(1) of S. 9 were inserted in between the words “including embankment and drainage” and “State Government” *vide* the Assam Act No. X of 1985. It came into force at once.

### **10. Vesting and taking possession of land acquired under S.9.**

- (1) When an order of acquisition is served or published under sub-S. (2) of S.9, the land shall vest absolutely if

the State Government free from all encumbrances on the date the order is so served or published.

- (2) The Collector may, at any time after the land becomes so vested, proceed to take possession thereof.
- (3) On such vesting, the order passed under sub-S. (1) of S.9 shall published in the official Gazette in the manner prescribed.

## **11. Compensation.**

- (1) Subject to the provisions of sub-S.(2), whenever any land is acquired under S.6 or S.9 there shall be paid compensation the amount of which shall be determined by the Collector.

In determining the amount of compensation the Collector shall take into consideration the market value of the land for a period of five years preceding the date of publication of the notice under sub-S. (1) of S.6 where the land is acquired under the said section, and where the land is acquired under S.9, from the date of passing the order under sub-s. (1) of the said section, and the amount of compensation payable shall be on basis of the average market value so arrived at:

Provided that where any building is acquired under S.6, the compensation shall be payable at the market value of the building on the date of publication of the notice under sub-S. (1) thereof.

- (2) In the case of land with respect to which any settlement has been made for the special cultivation or which is include in any grant, if such land is lying fallow or uncultivated or is not utilised for the purpose for which the grant or settlement was made or for the purposes incidental thereto, then the compensation payable for acquisition of such land together with trees any standing on it shall be an amount equal to ten times the annual land revenue which on the date of publication of the notice referred to in sub-S. (1) of S.6 or sub –S. (1) of S.9, is or would have been payable if such land is or had been assessable to revenue at full rates:

Provided that where any amount was originally paid to Government by the grantee as price or premium for the land, an additional amount equal to the amount originally paid by the grantee shall also be payable.

*Explanation.* “Special Cultivation” means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of the capital per acre than is incurred by most of the cultivators in the State, and includes cultivation of tea.

- (3) When the compensation has been determined under sub-S. (1) or sub-S. (2), the collector shall make an award in accordance with the principles set out in S.11 of the land Acquisition Act, 1894 (At I of 1894), but no amount referred to sub-S.(2) of S.23 of that Act shall be included in the award.

(4) Where any land requisitioned under S.3, there shall be paid subject to the provision of sub-S (5) below, to every person interested such compensation as may be agreed upon in writing between such person and the Collector or in the absence of agreement, reasonable compensation in respect of-

- (a) the requisition of such land; and
- (b) the damage done during the period of requisition of such land other than what may have been sustained by reasonable wear and tear and irresistible force:

Provided that in determining the amount of compensation whether in the case of agreement or otherwise, such amount shall not exceed the rent payable under the provisions of the Assam Urban Areas Rent Control Act, 1961 (Assam Act 11 of 1962), or the Assam Non-Agricultural Urban Areas Tenancy Act, 1955 (Act XII of 1955) or the Assam (Temporarily Settled Districts) Tenancy Act, 1935 (Assam Act III of 1953), so far as they may be applicable or of any of the statutory re-enactment or modification thereof.

(5) Notwithstanding the provisions of sub-S.(2) of S.12, in the case of land include in any grant or settlement made for special cultivation or other purposes which is lying fallow or uncultivated and which is requisitioned for the purpose of cultivation, the annual compensation payable under Cl.(a) of sub -S.(4) shall in no case be more than



double the annual land revenue which, on the date of order of requisition, is or would have been payable if such land is so or had been assessable to revenue at full rates.

## COMMENTS

*Section 11.* The High Court of Assam and Nagaland while dealing with S.7 (2) of the Act [Which is similar to sub b-S (3) of this Act], in *The Collector of Kamrup v. Lalana Prasad Sarma and others* [AIR (1973) Gau 1] held that no discrimination is involved in the omission of the solatium under S.7 (2) [similar to the present A.11 (3) ] of the Assam Act which is different from the provisions contained in S.23 (3) of the Land Acquisition Act, 1894.

It was held in *The Gaur Nitay Tea Co. v. State of Assam* [AIR 1960 A and N 58] that this section is not violative of Article 14 or 31 of the Constitution of India. Unless it can be established that the principal laid down in the impugned Act is not relevant to the assessment of the compensation, it cannot be said that the Act does not provide for compensation. If the principles adopted by the Act provides for the lesser compensation, this only relates to the adequacy and not the validity of the Act. [*P. Vajreavelu Mudaliar v. S.D.C., West Madras* AIR 1965 SC 1017. relied upon].

Where the dispute arose as to whether the lesser scale of compensation prescribed under S.7 (1-A) of lesser one attracted to the situation, the simple statutory test that settles the issue is to be find out whether the land acquired is lying fallow or cultivated. If it is, a small compensation alone is awarded as laid down in S.7 (1-A) of the Act, (1948) : on the other hand, if it is tea garden, the quantum is as under S.23 of the Land Acquisition Act, 1894. [*Shri*

*Hemendra Prasad Barmah v. The Collector of Sibsagar*, AIR 1976 SC 908 the decision in AIR 1968 Assam 34 affirmed)]

In the scheme of the Act there is no scope for acquiring any tea estate or any other estate, as an estate. What is acquired is land. In determining the compensation for such land Collector, or for the matter of that the Judge is to be determine the market value of the land; the damage sustained by the person interested by reasons of taking any standing crop or trees which may be on the land at the relevant time, the damage sustained by the person interested at the time of the Collector's taking possession of the land, by reason of serving such land from his other land; the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of the acquisition injuriously affecting his other properties movable or immovable in any other manner, or his earnings, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business the reasonable expenses (if any), incidental to such change and the damage (if any) bona fide resulting from diminution of the land, at the time of the publication of declaration under S.6 and at the time of the Collector's taking possession of the land. In the case of land, its value in general can be measured by a consideration of the prices that have been obtained in the past for land of similar quality and in similar positions, and this is what must be meant in generally by "the market value" in S. 23 [*Muralidhar Barua v. The State*, AIR 1977 Gau 44].

The Privy Council observed in *Atmaram Bhagwat Ghadgay v. Collector* [AIR 1929 PC ]that an owner of land is entitled to the value to himself of the property in its actual condition at the time of expropriation of all its then existing advantages and with all its future possibilities, excluding only any advantages due to the

carrying out of the scheme for the purposes for which the property was being acquired. In another case of *Vyricherla Narayan Gojapatirraja v. Revenue Divisional Officer* [AIR 1939 PC 98]. It was observed that the compensation must be determined by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser and that in case of land its value in general can be measured by a consideration of the prices that have been obtained in the past for land of a similar quality and in similar position and this is what must be meant in general by market value. In *Special Land Acquisition Officer v. T. Addinarian Setty* [AIR 1959 SC 429], it was observed that the function of the Court in awarding compensation under the Act is to ascertain the market value of the land on the date of notification under S.4 (1) and that the methods of valuation may be (i) opinion of experts , (ii) the price paid within a reasonable time in bona fide transaction of purchase of the land acquired or the lands adjacent to the lands acquired and possessing similar advantages, and (iii) a number of years purchase of the actual or immediately prospective profits of the land acquired. In *Smt. Triveni Devi v. Collector* [AIR 1972 SC 1417], it was held that the land acquired has to be valued not only with reference to its condition at the time of the declaration under S.4 of the Act but its potential value also must be taken into account. The sale deeds of the lands situated in the vicinity and the comparable benefits and advantages which they have, furnish a rough and ready method of computing the market value. In *Adusumilli Gopalkrishna v. Deputy Collector* [AIR 1980 SC 1870], it was ruled that an assessment of the compensation payable for acquired must take into account several factors, including the nature of the land, its present use and its capacity for a higher potential, its precise location in relation to adjoining land, that use to which neighbouring land has been put and the impact of such use on the land acquired and so on. In *Deep Chand v. The State* [AIR 1980 SC 633], it was observed that the locality or vicinity is

not always measurable in terms of feet or furlongs, and reasonable time is not always measurable in terms of days or months. In *Mrs. Khoshed Shappor Chenai v. Assistant Collector* [AIR 1980 SC 775] it was held that it is the duty of a Court to give the owners as nearly as possible the market value and failure to do so would result in unjust enrichment of the acquire on the one hand and unjust deprivation of the owner on the other which would be unethical and illegal at the same time.

Such various decisions were considered in *Rabindra Dhar Barua v. Collector of Kamrup* [(1981) 1 GLR 200].

When notices under Ss. 4,6 and 9 of the Act have been issued and the land in question has been acquired, it is the legal duty on the part of the Collector's office as required under S.11 and to file the same in the Collector's office as required under S.12 of the Act. [*Benoy Mazumdar v. The State*, AIR 1977 Gau 54].

Section 28 of the Land Acquisition Act gives discretion to the Court to award or not to award interest, if the Court chooses to grant interest; it has got to grant such interest as laid down in the section. It has been held in the case of *Collector v. Phani Bhushan* [AIR 1955 Assam 124] that unless there are special reasons to the contrary interest ordinarily should be granted to the claimant specially when there is a big differences between the award given by the Collector and the amount eventually awarded by the court. [*The Socklating Tea Co. Ltd v. The Collector*, AIR 1977 Gau 61].

In the instant case where a small fraction of the area under plantation has been acquired and the price of land according to the market value has been paid, it was held that no compensation by way of reinstatements is payable under this section. [ *The Socklating Tea Co. Ltd v. The Collector*, AIR 1977 Gau 61].

As appearing from s.30 of the Land Acquisition Act, a reference under the section pre-suppose any one of the two kinds of dispute mentioned therein, namely, (i) any dispute as to apportionment of the compensation awarded or any thereof, and (ii) any dispute as to the persons to whom the same or any part thereof is payable. A claim of this nature pre-supposes the rival claims of two or more contending parties which are to be decided by the Court. The word “dispute” means a quarrel between two or more rival parties laying claim over the whole or any part of the compensation money. The use of the word “person” *i.e.*, in plural number in the section is also significant. [*Phogesh Misao v. Collector of Land Acquisition*, AIR 1977 Gau 47].

The reference Court proceeded to examine the evidence to give its decision on the issue on the presumption that burden to prove lies with the Collector to prove that award by him was just, reasonable and according to law. It was not a correct approach to be adopted by the Court in view of the settled law that when the matter comes before the Reference Court at the instance of the party which challenge the award it is for the party to prove the infirmity, if any, in the award to substantiate its claim for enhancement of the compensation awarded. The Reference Court acts as a Civil Court and it has to act judicially in accordance with provisions of the Civil court and it has to act judicially in accordance with the provisions of the code of Civil Procedure which may be applicable to the proceedings before it by S.53 of the Act and accordingly the rules as to burden of prove contemplated in the Evidence Act shall also operate in such cases. [*The Collector, East Khasi Hills v. Ka Mills Mowri*, (1984 1 GLR (NOC) 21]

Denial of solatium- provision invalid- See decision in *Women American Baptist Foreign Mission Society v. Collector* [(1987) 1 GLR190.

No notice on cancellation or non-renewal of annual patta-effect- [*Purna Koch v.Loknath Dutta* , (1987) 2 GLR 461].

## **12.Reference to Court.**

(1) The collector shall in every case-

- a. where any person aggrieved by an award made under sub-S.(3) of S.11 makes an application requiring the matter to be referred to the Court; or
- b. where there is any disagreement with regard to the compensation payable under sub-S. (4) of S. 11 on the application of the person entitled to compensation requiring the matter to be referred to Court.

refer the matter to the decision of the Court.

(2) Subject to the provisions of this Act, the provisions of the Land Acquisition Act, 1984 (Act I of 1894), shall *mutatis mutatis* apply in respect of any reference made to the Court under sub-S.(1).

## **COMMENTS**

*Section 12.* When notices under Ss.4,6 and 9 of the Act have been issued and the land in question has been acquired, it is legal duty on the part of the Collector to pass the award. As required under

S. 11 and to file the same in the Collector's office as required under S. 12 of the Act, [*Benoy Mazumdar v. The State*, AIR 1977 Gau 54]

Statutory duty of the Collector to refer the question of compensation to the Court as provided under the provisions of this section. [*Renu Dass v. D.C.*, 1996 (ii) GLT 648].

**13.Payment of interest.** When the amount of any compensation payable under this Act is not paid or deposited within thirty from the date of the award the Collector shall pay the amount awarded with interest thereon at the rate of 6 percent annum from the date of the award until it shall have been so paid or deposited.

**14.Refund of land revenue.** After the publication of the notice referred to in sub-S. (1) of S.6 or after taking possession of the land under sub-S.(2) S.10 as the case may be, no land revenue shall be payable for any period thereafter and land revenue if any paid in respect of such period shall be refunded.

**15.Power to enter upon land. Etc.** The State Government may, with a view to requisitioning any land or the purposes of determination by the Collector of the amount of compensation payable under this Act, by order-

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified;

(b) direct that the owner or occupier of the land shall not dispose of it or after it without permission from the Government till expiry of such period as may be specified in the order;

(c) authorised any person to perform in respect of any land all or any of the functions referred to in sub-s. (2) of s. 4 of the Land Acquisition Act, 1984 (Act I of 1984).

16. **Penalty.** If any person contravenes any order made under this Act he shall be punishable with imprisonment for a term which extends to one year or with fine which may extend to two thousand rupees or with both.

17. **Saving.** Save as otherwise expressly provided in this Act no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

## COMMENTS

*Section 17.* Where land was acquired under S.4 before requisitioning it under S.3, a letter of requisition with retrospective effect will not validate the order of acquisition and such objection to the legality of acquisition can be raised under this section. [*Collector of Kamrup v. Kamakhya Ram*, AIR 1965 SC 1301] [This decision is in respect of s. 11 of the 1948 Act]. In another case making reference to S. 11 of the 1948 Act, it was observed in *Mazrul Hhussain v. Mrigendra Nath Barman* [ALR 1972 A and N 119], that to give jurisdiction to Civil Court, one must be able to establish that the former court did not comply with the provision of the relevant Act or that it did not act according to the fundamental principles of judicial procedure.

18. **Protection of action taken under this Act.**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith



done or intended to be done pursuance of this Act to any order made thereunder.

- (2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rule or an order made thereunder.

**19. Recovery of money payable to Government.** Any money payable to State Government under this Act shall be recoverable as arrear of land revenue.

**20. Power to make rules.**

- (1) The state Government may make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely.
- a. the manner of service of orders on the owner or occupier of land referred to in sub-S. (2) of S.3;
  - b. the manner of service of notice and orders on the persons referred to in sub-S. (2) of S.7 and in sub-S.(2) of S.9 respectively;
  - c. the manner and the conditions and terms on which land will be settled or disposed of by Governments;  
and

d. the manner of disposal of any structure of trees standing on the land.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive session, and if, before the expiry of the session in which it is to laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modification form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## **18. Repeal and saving.**

(1) The Assam Land (Requisition and Acquisition-act, 1948 (Assam Act XXV of 1948, the Assam Acquisition of land for flood Control and Prevention of Erosion (Validation) act, 1959 (Assam Act XXI Of 1960) are hereby repealed.

(2) Notwithstanding such repeal-

(a) any rule made, any order issued, any notification published, any proceedings commenced, any action taken or anything whatsoever done under the Acts repealed, shall continue and be deemed to have continued and have effect as if made, issued,

published, commenced taken or done under the corresponding of this Act;

- (b) any action taken, order made or other acts and things done by any officer acting or purporting to act under the Acts repealed in connection with the requisition or acquisition of any land shall be valid and shall be deemed always to have been valid, and shall not be called in question in any Court on the ground of incompetency of the officer to act under the Acts repealed

**22. Validation of acquisition and compensation under the repealed Acts.** Notwithstanding anything contained in any judgment, decree or order of any Court, all land requisitioned, required, compensation paid for, works undertaken or purported to have been requisitioned, acquired, compensation paid or works undertaken under the Acts repealed, shall be deemed always to have been as validity requisitioned, acquired, paid or undertaken as if the provisions of this Act were in force at all materials times when such requisition or acquisition was made or compensation was paid or works were undertaken, and accordingly-

- (a) no suit or other proceeding shall be maintained or continued in any Court against the State Government or any officer for the release of any land so requisitioned or acquired or for payment of any damages; and
- (b) no court shall enforce a decree or order directing the release of any land so requisitioned or acquired of for payment of damage.

## **Application of The Act in the State Of Meghalaya**

This Act was extended in its application of state of Meghalaya, by virtue of the Meghalaya Adaption of Laws Order (No 4 ) of 1971, to come into force effect from the appointed day, *i.e.* the 2<sup>nd</sup> day of April, 1970, whereby sub-S.(2) of this section has been substituted as follows:

“(2) It shall also extend to Shillong to the extent to which the provisions of this Act relate to any of the matters specified in paragraphs 3 of the Sixth Schedule to the Constitution”

And for Cl (b) of s. 2, the following was substituted:

“(b) “Court” means the principal Civil Court of original jurisdiction and includes any other Civil Court which the government of Meghalaya, may, by notification, appoint to perform all or any of the functions of a court under this Act.”

Again, by virtue of the Meghalaya Adaption of Laws Order (No. 3) 1973, further amendments were made, where by sub-Ss (2) and (3) of S. 1 were omitted, Ss. 21 and 22 were also omitted. This Adoption Order came into force on the appointed day *i.e.*, the 21st day of January, 1972. The Act was also re-named as the Meghalaya Land (Requisition and Acquisition) Act by virtue of the 1973 Adoption Order.